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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. *2013-515*

11 **RACHEL MEIGS HOOPES**
12 **1215 Burnett Street**
13 **Berkeley, CA 94702**

A C C U S A T I O N

14 **Registered Nurse License No. 730166**
15 **Nurse Midwife Certificate No. 1910**
16 **Nurse Midwife Furnishing Cert. No. 1910**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about July 8, 2008, the Board of Registered Nursing issued Registered Nurse
24 License Number 730166 to Rachel Meigs Hoopes (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 March 31, 2014, unless renewed.
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3. On or about August 16, 2010, the Board of Registered Nursing issued Nurse Midwife Certificate Number 1910 to Rachel Meigs Hoopes (Respondent). The Nurse Midwife Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2014, unless renewed.

4. On or about December 08, 2011, the Board of Registered Nursing issued Nurse Midwife Furnishings Certificate 1910 to Rachel Meigs Hoopes (Respondent). The Nurse Midwife Furnishing Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2014, unless renewed.

JURISDICTION

5. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

8. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially

1 related to the qualifications, functions, or duties of the business or profession for which the
2 license was issued.

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4 9. Section 2762 of the Code states:

5 "In addition to other acts constituting unprofessional conduct within the meaning of this
6 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
7 chapter to do any of the following:

8 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
9 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
10 administer to another, any controlled substance as defined in Division 10 (commencing with
11 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
12 defined in Section 4022.

13 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
14 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
15 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
16 himself or herself, any other person, or the public or to the extent that such use impairs his or her
17 ability to conduct with safety to the public the practice authorized by his or her license.

18 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
19 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
20 or the possession of, or falsification of a record pertaining to, the substances described in
21 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
22 thereof.

23 "(d) Be committed or confined by a court of competent jurisdiction for intemperate use of
24 or addition to the use of any of the substances described in subdivisions (a) and (b) of this section,
25 in which event the court order of commitment or confinement is prima facie evidence of such
26 commitment or confinement."

27 10. Section 2765 of the Code states:
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1 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
2 charge substantially related to the qualifications, functions and duties of a registered nurse is
3 deemed to be a conviction within the meaning of this article. The board may order the license or
4 certificate suspended or revoked, or may decline to issue a license or certificate, when the time
5 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an
6 order granting probation is made suspending the imposition of sentence, irrespective of a
7 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person
8 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
9 of guilty, or dismissing the accusation, information or indictment."

10 11. California Code of Regulations, title 16, section 1444, states:

11 "A conviction or act shall be considered to be substantially related to the qualifications,
12 functions or duties of a registered nurse if to a substantial degree it evidences the present or
13 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
14 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

15 "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
16 subdivision (d) of Penal Code Section 11160.

17 "(b) Failure to comply with any mandatory reporting requirements.

18 "(c) Theft, dishonesty, fraud, or deceit.

19 "(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
20 Penal Code."

21 12. Section 475 of the Code states:

22 "(a) Notwithstanding any other provisions of this code, the provisions of this division shall
23 govern the denial of licenses on the grounds of:

24 "(1) Knowingly making a false statement of material fact, or knowingly
25 omitting to state a material fact, in an application for a license.

26 "(2) Conviction of a crime.

27 "(3) Commission of any act involving dishonesty, fraud or deceit with the
28 intent to substantially benefit himself or another, or substantially injure another.

1 "(4) Commission of any act which, if done by a licentiate of the business or
2 profession in question, would be grounds for suspension or revocation of license.

3 "(b) Notwithstanding any other provisions of this code, the provisions of this division
4 shall govern the suspension and revocation of licenses on grounds specified in
5 paragraphs (1) and (2) of subdivision (a) .

6 "(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good
7 moral character or any similar ground relating to an applicant's character, reputation, personality,
8 or habits."

9 13. Section 493 of the Code states:

10 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
11 the department pursuant to law to deny an application for a license or to suspend or revoke a
12 license or otherwise take disciplinary action against a person who holds a license, upon the
13 ground that the applicant or the licensee has been convicted of a crime substantially related to the
14 qualifications, functions, and duties of the licensee in question, the record of conviction of the
15 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
16 and the board may inquire into the circumstances surrounding the commission of the crime in
17 order to fix the degree of discipline or to determine if the conviction is substantially related to the
18 qualifications, functions, and duties of the licensee in question.

19 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
20 'registration.'"

21 14. Section 490 of the Code provides, in pertinent part, that a board may suspend or
22 revoke a license on the ground that the licensee has been convicted of a crime substantially
23 related to the qualifications, functions, or duties of the business or profession for which the
24 license was issued.

25 15. Section 125.3 of the Code provides, in pertinent part, that:

26 "(a) Except as otherwise provided by law, in any order issued in resolution of a
27 disciplinary proceeding before any board within the department the department or before the
28 Osteopathic Medical Board, upon request of he entity bringing the proceeding, the administrative

1 law judge may direct a licentiate found to have committed a violation or violation of the licensed
2 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
3 case.

4
5 (i) Nothing in this section shall preclude a Board from including the recovery of costs
6 of investigation and enforcement in any stipulated settlement.”

7 **FIRST CAUSE FOR DISCIPLINE**

8 (CONVICTION OF A CRIME)

9 16. Respondent is subject to disciplinary action under section 2761(f) and 490 in that on
10 or about July 5, 2011, in a criminal proceeding entitled *People v. Rachel Meigs Hoopes* in Alpine
11 County Superior Court Case number M110305, Respondent was convicted by plea of no contest
12 to a violation of California Vehicle Code Section 23152 (b) (Driving while having a blood
13 alcohol level of .08 or higher.) The circumstances are as follows:

14 a. On or about March 28, 2011, at approximately 7:30 p.m., Respondent was
15 driving in Lake Tahoe, near the Kirkwood ski area and stopped by the local California Highway
16 Patrol officer for reckless and possible DUI driving. After being stopped Respondent exhibited
17 objective signs of intoxication. Respondent was detained and arrested. The BAC was listed as .17.

18 b. On or about July 5, 2011 Respondent was sentenced as follows: 3 years probation,
19 and ordered to pay fines in the amount of \$1904.00. Respondent was also ordered to complete a
20 DUI program.

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2 **SECOND CAUSE FOR DISCIPLINE**

3 (CONVICTION OF A CRIME)

4 17. Respondent is subject to disciplinary action under section 2761 (f) and 490 in that on
5 or about June 7, 2007, in a criminal proceeding entitled People v. Rachel Meigs Hoopes in
6 Alameda County Superior court Case number 511954, Respondent was convicted by plea of no
7 contest to a violation of California Penal Code 243(e)(1) (Battery). The circumstances are as
8 follows:

9 a. On or about August 25, 2005 Respondent made an unauthorized entry into
10 the home of another person without the consent of that person.

11 b. Respondent was sentenced with a six month deferred entry of judgment.

12 **THIRD CAUSE FOR DISCIPLINE**

13 (CONFINEMENT BY COURT)

14 18. Respondent is subject to disciplinary action under section 2762 (b) (c) (d) and section
15 490 in that on or about March 28, 2007, at approximately 7:30 p.m., Respondent was driving in
16 Lake Tahoe, near the Kirkwood ski area and stopped by the local California Highway Patrol
17 officer for reckless and possible DUI driving. After being stopped Respondent exhibited objective
18 signs of intoxication. Respondent was detained and arrested. The Blood Alcohol Content was
19 listed as .17. Respondent was subsequently criminally convicted for driving while under the
20 influence as noted in paragraph 16 above and incorporated herein by reference.

21 **DISCIPLINE CONSIDERATIONS**

22 19. To determine the degree of discipline, if any, to be imposed on Respondent,
23 Complainant alleges that on or about February 22, 2000, in a prior criminal proceeding entitled
24 *People of the State of Colorado v. Rachel Meigs Hoopes* in Boulder County Superior Court, Case
25 Number 2000M163. Respondent was convicted for violating CRS 18-9-106(1)(a), Disorderly
26 Conduct/Petty Offense (PO1) misdemeanors.

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2 **PRAYER**

3 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
4 and that following the hearing, the Board of Registered Nursing issue a decision:

5 1. Revoking or suspending Registered Nurse License Number 730166, issued to Rachel
6 Meigs Hoopes.

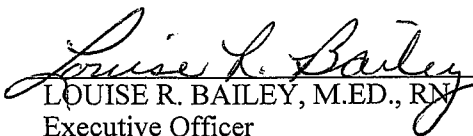
7 2. Revoking or suspending Nurse Midwife Certificate Number 1910, issued to Rachel
8 Meigs Hoopes;

9 3. Revoking or suspending Nurse Midwife Furnishing Certificate Number 1910, issued
10 to Rachel Meigs Hoopes;

11 4. Ordering Rachel Meigs Hoopes to pay the Board of Registered Nursing the
12 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
13 Professions Code section 125.3;

14 5. Taking such other and further action as deemed necessary and proper.

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16 DATED: December 24, 2012

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18 LOUISE R. BAILEY, M.ED., RN
19 Executive Officer
20 Board of Registered Nursing
21 Department of Consumer Affairs
22 State of California
23 Complainant

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26 accusation.rtf
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